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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,929

04/10/2007

Karl-Heinz Krah

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER

AFTERGUT, JEFF H

ART UNIT

PAPER NUMBER

1791

NOTIFICATION DATE

DELIVERY MODE

04/26/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milesstockbridge.com
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Office Action Summary	Application No. 10/581,929	Applicant(s) KRAH ET AL.	
	Examiner Jeff H. Aftergut	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-16, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11-8-2006</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-8, 17, and 18 in the reply filed on 3-18-10 is acknowledged.
2. Claims 9-16, 19 and 20 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3-18-10.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent 51-66367.

Japanese Patent '367 taught that a thermosetting resin and aggregate are charged into a kneading/supply device and kneaded; the resin is extruded from an extruding port and wound up around a layer of glass fiber impregnated with resin disposed upon a mandrel. The reference taught that a strip of thermosetting resin with aggregate (fibers) kneaded therein was extruded from nozzle 51 as strip 6 and then wound upon the layers disposed on the mandrel. The kneading arrangement can be better seen in Figure 2 wherein a screw means was employed to knead the thermosetting resin and aggregate and form the same into a mixture suitable for

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extrusion out of the nozzle of the assembly. While Japanese Patent '367 taught that the resin was a thermosetting resin, applicant is advised that this is the material worked upon and is given little or no weight in determination of the patentability of the apparatus claims since the system would have been capable of working on thermoplastic resin.

Regarding claim 2, note that the reference suggested that the kneading means employed would have included a screw kneading device. Regarding claim 3, specifying the specific thermoplastic used in the operation does not material effect the apparatus and thus the reference still anticipates the claimed invention. Regarding claims 4-6, 8, 17, and 18, note that the reference suggested the same system and while not identifying the specific aggregate and/or plastic material used in the operation, these limitations add nothing to the structure of the apparatus as claimed. One skilled in the art would have been clearly capable of using the device of Japanese Patent '367 with the identified materials and as such the structure defined by Japanese Patent '367 as well as that added by the definition of the materials worked upon are anticipated by the reference. With respect to claim 7, the structure of the final product does not materially affect the structure of the apparatus which is clearly capable of working on the specified materials and making the specified final product.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1088645 in view of Japanese Patent 51-66367.

EP '645 suggested that those skilled in the art at the time the invention was made would have not only extruded a strip and wound the same to form a composite pipe wherein the plastic material of the extrusion was a thermoplastic material but the reference additionally suggested that the extruded strip included filler therein which included reinforcing fibers. The reference suggested additionally that plural layers would have been wound with the system one onto the other wherein the angles between the same were disposed at equal and opposite helix configurations relative to the mandrel axis. The reference failed to expressly suggest that in the operation wherein the fiber filler was added in the extrusion that one skilled in the art would have kneaded the material prior to the extrusion operation in order to uniformly mix the components prior to exiting the nozzle.

The reference to Japanese Patent '367 suggested that those skilled in the art at the time the invention was made would have incorporated a kneading means within the extrusion apparatus when making a profile strip for winding wherein an aggregate was added to the resin material in the extruder prior to exiting the nozzle. Such a kneading means as defined by Japanese Patent '367 improved the mixing of the resin and the fiber aggregate and presented a uniform blend of the same. As it would have provided a uniform blend of the fiber and thermoplastic polymer in EP '645, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a kneading means within the extrusion system of EP '645 when making a strip having

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aggregate filler and plastic therein for winding as suggested was desirable by Japanese Patent '367.

Applicant is advised as discussed above regarding the various dependent claims that for the most part they define material worked upon and do not materially affect the structure of the apparatus. It should be noted that EP '645 suggested that those skilled in the art would have employed a thermoplastic resin for the profile strip and additional suggested winding plural layers with the system to manufacture the article as defined in claim 7.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Jeff H. Aftergut/ whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:30-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff H. Aftergut/
Primary Examiner
Art Unit 1791

JHA
April 20, 2010